

PATENT  
0760-0297P

IN THE U.S. PATENT AND TRADEMARK OFFICE

Applicant: KUMAGAI, Hiroki et al. Conf.: 9428  
Appl. No.: 09/980,197 Group: 1614  
Filed: November 30, 2001 Examiner: Cook, Rebecca  
For: AGENT FOR MODULATING GROWTH OR  
GENERATION OF HAIR

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PRELIMINARY REMARKS

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

March 9, 2004

Sir:

In conjunction with the filing of a Request for Continued Examination (RCE), the following remarks are respectfully submitted in response to the Examiner's comments in the February 10, 2004 Advisory Action.

R E M A R K S

Claims 17 and 19-24 remain rejected under 35 U.S.C. 103(a) as being unpatentable over Isogaya et al. (U.S. Patent 5,508,303).

Applicants respectfully traverse the rejection.

Applicants' comments regarding this rejection as set forth in the October 9, 2003 amendments, are herein incorporated by reference in their entirety.

In the February 10, 2004 Advisory Action, at page 2, the Examiner states that the Affidavit (filed with the October 9, 2003 Amendment) does not place the application into condition for allowance, because there is "no nexus... seen between platelet aggregation-inhibiting activity and modulating growth or generation of hair."

Applicants respectfully submit that the presently claimed invention is patentable over the teachings of Isogaya et al., since the inventive claims do not encompass the compounds disclosed by Isogaya et al. In other words, the experimental evidence in the October 9, 2003 Rule 1.132 Declaration is not necessary for patentability.

However, should the Examiner find to the contrary, the Examiner is respectfully requested to precisely point out which compounds of Isogaya et al. are encompassed by the inventive claims. Furthermore, the Examiner is respectfully requested to explain why the experimental evidence in the specification does

not provide a sufficient nexus between platelet aggregation-inhibiting activity and modulating growth or generation of hair.

Applicants take this opportunity to explain the relationship between platelet aggregation-inhibiting activity and modulating growth or generation of hair.

First, before getting into the platelet aggregation-inhibiting activity of the present compounds, the Examiner's attention is directed to the specification wherein in Example 2, Compound 1 is shown to improve the rate of hair-generated area in the rabbit model. Also, in Example 4, Compound 2 is shown to improve the length of new hair using young New Zealand White rabbits. Accordingly, there is a clear showing that the skilled artisan is provided sufficient guidance to use the present compounds to modulate the growth or generation of hair, as claimed.

Second, the Examiner is aware that an unwanted side effect of certain drugs is the inhibition of platelet aggregation, since a person taking these drugs having a high inhibitory activity will have a reduced ability to stop bleeding in the event of an accident resulting in open wounds.

Third, the October 9, 2003 Rule 132 Declaration provides evidence that the inventive compounds are superior to the compounds of Isogaya et al., since the inventive compounds have

a lower unwanted side effect than the compounds of Isogaya et al., i.e., a lower platelet aggregation inhibitory activity.

Accordingly, without evidence to the contrary, the reduced platelet aggregation-inhibiting activity coupled with the improved ability to modulate growth or generation of hair of the instant compounds is sufficient to render the inventive compounds nonobvious over the compounds of Isogaya et al.

#### Conclusion

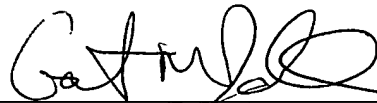
In view of the above comments, Applicants respectfully submit that the claims are in condition for allowance. A notice to such effect is earnestly solicited.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact **Garth M. Dahlen, Ph.D., Esq.** (Reg. No. 43,575) at the telephone number of the undersigned below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

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Attachment(s) :

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